

U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION

WILLIAM M. BRYSON, JR.

CIVIL ACTION
NO. CV06-1426-A

VERSUS

UNITED STATES OF AMERICA

JUDGE DEE D. DRELL
MAGISTRATE JUDGE JAMES D. KIRK

REPORT AND RECOMMENDATION OF MAGISTRATE JUDGE

Bryson filed a habeas petition pursuant to 28 U.S.C. § 2241, which was dismissed by the District Judge on April 12, 2007 (Doc. Item 15). Bryson filed a notice of appeal on April 19, 2007, and a motion for a certificate of appealability (Doc. Item 18), which was denied on April 27, 2007 (Doc. Item 19). Bryson then filed a motion for reconsideration of the denial of his certificate of appealability ("COA") (Doc. Item 20, 24), which the District Judge referred to the undersigned for report and recommendation (Doc. Item 22).

A COA is not required for a Section 2241 petitioner to proceed on appeal. McFarland v. Jeter, 2007 462575 (5th Cir. 2007), citing Jeffers v. Chandler, 253 F.3d 827, 830 (5th Cir. 2001). Therefore, Bryson's motion for a certificate of appealability should be denied as unnecessary.

Bryson also included several other motions in the same document as his motion for reconsideration, all of which were filed after judgment was rendered and Bryson's appeal was lodged (Doc. Items 20, 24). Therefore, the District Court has been divested of jurisdiction to consider those motions.

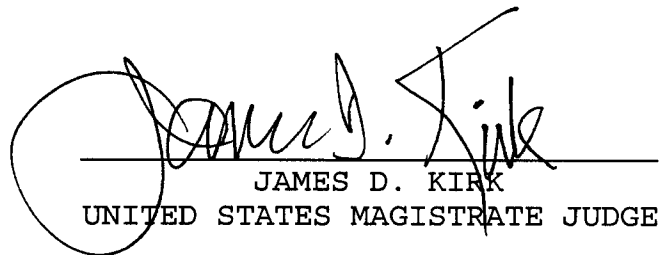
Conclusion

Based on the foregoing discussion, IT IS RECOMMENDED that Bryson's request for a certificate of appealability be DENIED AS UNNECESSARY.

Under the provisions of 28 U.S.C. § 636(b)(1)(c) and Fed.R.Civ.P. 72(b), the parties have **ten (10) business days** from service of this Report and Recommendation to file specific, written objections with the Clerk of Court. A party may respond to another party's objections within **ten (10) days** after being served with a copy thereof. A courtesy copy of any objection or response or request for extension of time shall be furnished to the District Judge at the time of filing. Timely objections will be considered by the district judge before he makes a final ruling.

A PARTY'S FAILURE TO FILE WRITTEN OBJECTIONS TO THE PROPOSED FINDINGS, CONCLUSIONS AND RECOMMENDATIONS CONTAINED IN THIS REPORT WITHIN TEN (10) BUSINESS DAYS FROM THE DATE OF ITS SERVICE SHALL BAR AN AGGRIEVED PARTY, EXCEPT ON GROUNDS OF PLAIN ERROR, FROM ATTACKING ON APPEAL THE UNOBJECTED-TO PROPOSED FACTUAL FINDINGS AND LEGAL CONCLUSIONS ACCEPTED BY THE DISTRICT JUDGE.

THUS DONE AND SIGNED at Alexandria, Louisiana, on this 31st
day of May, 2007.


JAMES D. KIRK
UNITED STATES MAGISTRATE JUDGE